



# UNITED STATES PATENT AND TRADEMARK OFFICE

716  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/014,877   | 12/11/2001  | Matthew L. Albert    | 600-1-291 CON       | 4555             |
| 23565  | 7590        | 10/04/2004           | EXAMINER            |                  |
| KLAUBER & JACKSON<br>411 HACKENSACK AVENUE<br>HACKENSACK, NJ 07601 |             |                      | NICKOL, GARY B      |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |

1642

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1642

Re: Albert *et al.*

Date of priority: 02/20/1998

***Election/Restrictions***

Newly amended claim 28 and new claims 50-56 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 28 differs at least in objectives, method steps, reagents and/or dosages and/or schedules used, response variables, and criteria for success from that which was originally presented. Further, originally presented Claim 28 is unrelated to the amended version of Claim 28 as each method comprises distinct steps and utilizes different products, which demonstrates that each method has a different mode of operation. For example, Claim 28 now includes a method of assessing cytotoxic T lymphocyte activity comprising contacting “immature” dendritic cells. The claims further include the distinct step of promoting maturation by exposure to maturation factor. Also, the response variables have changed because now the claims require the characterization of certain surface molecules such as CD83 or DC-LAMP. Hence, the amended claim 28 is unrelated to the originally presented and prosecuted Claim 28 and would have been restricted from the elected group had it been presented earlier. Further, new claims 50-56 include distinctly unique steps that were not previously considered and are considered independent from that which was originally examined. For example, Claim 56 now requires depriving the cells of nutrients, and Claim 53 requires exposing the cells to independent and or distinct molecules considered to be “maturation factors”. Not only are these claims not readable on the elected invention, but the new claims also would be subject to further restrictions since they are

Art Unit: 1642

materially distinct methods which differ at least in objectives, method steps, reagents and/or dosages and/or schedules used, response variables, and criteria for success. All of these are considered unrelated to the invention that was previously examined.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1-56 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a). A fully responsive reply must be timely filed to avoid abandonment of this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary B. Nickol Ph.D. whose telephone number is 571-272-0835. The examiner can normally be reached on M-Th, 8:30-5:30; alternate Fri., 8:30-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1642

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary B. Nickol Ph.D.  
Primary Examiner  
Art Unit 1642

GBN

  
**GARY NICKOL**  
**PRIMARY EXAMINER**